

**From:** ftg@wt6.usdoj.gov@inetgw  
**To:** Microsoft ATR  
**Date:** 1/23/02 7:57pm  
**Subject:** Microsoft Settlement

Having reviewed the available material, I do not agree that the proposed settlement will be at all effective in any of the areas of punishing Microsoft for the offenses of which it has been found guilty, preventing future violations, or making any realistic restitution to those harmed to date.

Microsoft maintains its monopoly almost solely through punitive contracts with OEMs which discourage them from offering alternatives to Windows. It is only their monopoly that gives these contracts "teeth". If OEMs believed that they could obtain equal treatment from Microsoft in spite of offering competing products, they would offer those products if the market wanted them. As it is, OEMs are too scared to offer even Windows-based products that are seen to threaten Microsoft's monopoly. A perfect example is the Sun Java Runtime for Windows. This product is free, yet when Microsoft decided to remove their own Java Runtime from Windows XP, no OEM dared to bundle the Sun Java Runtime with their Windows-preloaded PCs for fear of retribution from Microsoft.

The only effective throttle on Microsoft will be to force it to deal equally and fairly with OEMs. OEM deals should be in the public domain, and any OEM who has been the victim of discrimination ought to be able to recoup extreme punitive damages. These are not conditions to which an arbitrary software company should ordinarily submit, but in the case of Microsoft, they constitute a "punishment which fits the crime". Microsoft has abused its monopoly position by wielding this weapon against OEMs in order to maintain its monopoly, and it is only just that any punishment demand damages from Microsoft in this area.

The proposed settlement will be, in my opinion, absolutely ineffective in controlling such abuses in the future.

Sincerely,

Francis T. Griffin  
Biddeford, ME